

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JON BRUNEAU et al.,

Plaintiffs,

Case No. 1:20-cv-11588

v.

Honorable Thomas L. Ludington
United States District Judge

COUNTY OF MIDLAND and
COUNTY OF GLADWIN,

Honorable Patricia T. Morris
United States Magistrate Judge

Defendants.

**OPINION AND ORDER OVERRULING PLAINTIFFS' OBJECTIONS, ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION, GRANTING
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, AND DISMISSING CASE**

Plaintiffs have objected to the magistrate judge's report recommending the granting of Defendants' motion for summary judgment and the dismissal of the case. A hearing is not necessary. E.D. Mich. LR 7.1(f)(2). As explained below, Plaintiffs' objections will be overruled because the magistrate judge's report shows no clear or prejudicial errors.

I.

This case concerns the collapse of Michigan's century-old Edenville Dam following heavy rain on May 19, 2020. Plaintiffs, property owners near the Dam in Midland, Beaverton, and Sanford, seek to recover damages they allege were caused by the Dam's failure. ECF No. 32. So they filed a complaint in June 2020 against Midland and Gladwin Counties for Inverse Condemnation under 42 U.S.C. § 1983, Gross Negligence under Michigan law, and a Takings violation under the Michigan Constitution. *Id.*

In October 2022, Defendants filed a motion for summary judgment, ECF No. 56, Plaintiffs responded, ECF No. 59, and Defendants replied, ECF No. 62.

On July 10, 2023, Magistrate Judge Patricia T. Morris issued a report recommending that Defendants' Motion for Summary Judgment be granted and the case be dismissed. ECF No. 81.

Now before this Court are Plaintiffs' Objections to Judge Morris's report. ECF No. 82. Although Judge Morris provided both parties 14 days to object, only Plaintiffs did so. Therefore, Defendants have forfeited their right to appeal Judge Morris's findings. *See Berkshire v. Dahl*, 928 F.3d 520, 530–31 (6th Cir. 2019) (citing *Thomas v. Arn*, 474 U.S. 140, 149 (1985)).

II.

When a party objects to a magistrate judge's report, the court must review *de novo* those portions of it to which the party has objected. 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(3). To that end, the court must review at least the evidence that was before the magistrate judge. *See Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). After reviewing the evidence, the court may accept, reject, or modify the findings or recommendations. FED. R. CIV. P. 72(b)(3); *Peek v. Comm'r of Soc. Sec.*, 585 F.Supp.3d 1014, 1017–18 (E.D. Mich. 2021).

The court may adopt the magistrate judge's report without specifying what it reviewed. *Abousamra v. Kijakazi*, No. 1:21-CV-12918, 2023 WL 1997068, at *1 (E.D. Mich. Feb. 14, 2023) (citations omitted); *see also Odell v. Kalitta Air, LLC*, No. 1:22-CV-12290, 2023 WL 4084490, at *1 (E.D. Mich. June 20, 2023) ("If the district court will affirm the magistrate judge's report, then it may simply identify the parts of the record that it reviewed and state that it found no clear error.") (collecting cases).

III.

This Court has reviewed Plaintiffs' Amended Complaint, ECF No. 32, Defendants' Answer, ECF No. 33, Defendants' Motion for Summary Judgment, ECF No. 56, Plaintiffs' Response to Defendants' Motion for Summary Judgment, ECF No. 59, Defendants' Reply to

Plaintiffs' Response to Defendants' Motion for Summary Judgment, ECF No. 62, Judge Morris's Report and Recommendation to Grant Defendants' Motion for Summary Judgment, ECF No. 81, Plaintiffs' Objections, ECF No. 82, and all other applicable filings and law.

Having conducted this *de novo* review, this Court concludes that Judge Morris's factual conclusions are reasonable and correct, that she applied the correct law, and that her legal reasoning is sound. That is, there are no clear or prejudicial errors in Judge Morris's recommendations (1) to grant Defendants' Motion for Summary Judgment or (2) to dismiss the case. For these reasons, Plaintiffs' Objections will be overruled, and Judge Morris's Report and Recommendation will be adopted.

IV.

Accordingly, it is **ORDERED** that Plaintiffs' Objections, ECF No. 82, are **OVERRULED**.

Further, it is **ORDERED** that Magistrate Judge Morris's Report and Recommendation, ECF No. 81, is **ADOPTED**.

Further, it is **ORDERED** that Defendants' Motion for Summary Judgment, ECF No. 56, is **GRANTED**.

Further, it is **ORDERED** that the Amended Complaint, ECF No. 32, is **DISMISSED WITH PREJUDICE**.

This is a final order and closes the above-captioned case.

Dated: July 26, 2023

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge